

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RICHARD J. HILL,

Plaintiff,

v

JUSTIN WONCH, and  
TOWNSHIP OF FORSYTH,

Defendants.

U.S. District Judge:  
Hon. Hala Y. Jarbou

U.S. Magistrate Judge:  
Maarten Vermaat

Case No: 2:19-cv-159

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**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO  
AMEND EXPERT DISCLOSURE AND SUBSTITUTE EXPERT WITNESS**

Defendants oppose the request by plaintiff to substitute an expert witness at this late date, just two months before the date that the trial is to begin on April 25. Plaintiff named Isaiah McKinnon as his expert witness in February 2020. It is probably significant that Plaintiff makes no representation in his motion as to the extent of his attorney's communication with Mr. McKinnon at that time or thereafter.

Defendants agree with plaintiff's advice to the court that he did seek concurrence in the request to substitute an expert, during the latter part of the week of February 21. In the course of this discussion, plaintiff's attorney advised undersigned counsel that he did not contact Mr. McKinnon in February 2020 and did not obtain an opinion from him supporting the claims in this case. Nor, it appears, did he do so at any later time before we requested a date for a

discovery deposition. (Our request was first made on February 2. We had no response until this discussion last week.) Plaintiff's attorney advised us that he needed to get materials regarding this case to McKinnon for his review before he could give a discovery deposition.

If plaintiff in fact did not contact Mr. McKinnon, send him materials, or have any discussions with him in 2020 or in 2021, that does not constitute due diligence under any interpretation of the phrase.

For these reasons, defendants request that the Court deny plaintiff's motion.

Respectfully submitted,

KITCH DRUTCHAS WAGNER  
VALITUTTI & SHERBROOK

Dated: March 2, 2022

By: /s/ M. Sean Fosmire  
M. Sean Fosmire